

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

ROBERT DAVID WIBLY,

Plaintiff,

vs.

MICHAEL J. ASTRUE,
Commissioner of Social Security

Defendant.

:
:
:
:
:
:
:
:
:
:
:
:

CASE NO. 4:09-CV-1248

OPINION & ORDER

[Resolving Doc. [1](#), Doc. [19](#).]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On May 31, 2009, Plaintiff Robert David Wibly filed a Complaint under [42 U.S.C. § 405\(g\)](#), seeking judicial review of the Commissioner of Social Security's denial of his claim for disability benefits. [Doc. [1](#).] In his Complaint, Plaintiff Wibly argues that the Administrative Law Judge ("ALJ") who heard his claim erred in determining that Wibly was not disabled within the meaning of the Social Security Act, and therefore not entitled to benefits. Wibly argues that the ALJ's decision is not supported by substantial evidence, is contrary to law, and constitutes an abuse of discretion. [Doc. [1](#) at 4.] The Commissioner disputes these claims. [Doc. [10](#).]

This matter was automatically referred to Magistrate Judge Benita Y. Pearson pursuant to Local Rule 72.2. On May 20, 2010, Magistrate Judge Pearson issued a Report and Recommendation that recommended this Court affirm the Commissioner's denial of Plaintiff Wibly's claim for disability benefits. [Doc. [19](#).] Neither party has objected to the Magistrate Judge's recommendation.

Case No. 1:08-CV-1343
Gwin, J.

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a Report and Recommendation to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Parties must file any objections to a Report and Recommendation within fourteen days of service. *Id.*; [Fed. R. Civ. P. 72\(b\)\(2\)](#). Failure to object within this time waives a party's right to appeal the district court's judgment. [Thomas v. Arn, 474 U.S. 140, 145 \(1985\)](#); [United States v. Walters, 638 F.2d 947, 949-50 \(6th Cir. 1981\)](#). Absent objection, a district court may adopt the magistrate judge's report without review. See [Thomas, 474 U.S. at 149](#).

Moreover, having conducted its own review of the record and the parties' briefs in this case, the Court agrees with the conclusions of Magistrate Judge Pearson. Accordingly, the Court **ADOPTS** in whole Magistrate Judge Pearson's findings of fact and conclusions of law and incorporates them fully herein by reference, and **AFFIRMS** the Commissioner's denial of benefits.

IT IS SO ORDERED.

Dated: July 14, 2010

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE